

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
SECOND APPEAL NO.1574 OF 2005**

.....
Office Notes, Office
memorandum of Coram,
appearances, Court's
orders or directions
& Registrar's orders.
.....

Court's or
Judge's orders

Mr.R.S.Kate for the Appellant
Mr.S.N.Gawade, A.G.P. for R.Nos.2 to 4

**CORAM: A.S.OKA, J.
DATED: MARCH 14, 2006.**

P.C.:

1. Heard Shri Kate for the Appellant.
The Appeal is by the original Defendant
No.4. Shri Kate submitted that the
Appellate court could not have passed a
decree on the basis of the report of the
Court Commissioner in absence of any
evidence to show that the properties were
divided by metes and bounds in a
particular manner. He therefore submitted
that interference is called for with the
Judgment of the Appellate Court.

2. The Appellate Court has noted that
there was no dispute between the
contesting parties that the partition was
in fact effected around the year 1967.

The Appellate Court relied upon the admission of the Appellant to the effect that the sketch annexed to the plaint was correct. There was also an admission on the part of the Appellant as regards the sketch prepared by the Court Commissioner. On the basis of the material on record the finding of fact has been recorded by the Appellate court.

3. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

Judge.